

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

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|---|---|----------------------|
| LeRoy K. Wheeler, |) | |
| |) | |
| Plaintiff, |) | ORDER |
| |) | |
| vs. |) | |
| |) | |
| State of North Dakota, Tim Schuetzle, and |) | |
| Leann K. Bertsch, |) | Case No. 1:07-cv-075 |
| |) | |
| Defendants. |) | |

On December 16, 2008, the court entered an order denying without prejudice Plaintiff's Motion for Order of Production of Discovery Materials. That same day the court entered a separate order denying Plaintiff's Motion to Amend Pleadings or Add Claims.

On December 30, 2008, Plaintiff filed a Motion for Reconsideration of the court's order dated December 16, 2008. This created some confusion as the court had issued two separate orders on day. The court nevertheless denied the motion as it could find not basis for reconsidering its previous decision.

On January 12, 2009, Plaintiff filed what the court construes as a second Motion for Reconsideration and request for hearing. Therein, he clarified that he seeks reconsideration of the court's December 16, 2008, order denying his Motion for Order of Production of Discovery Materials. In addition, he complains that the court did not afford him to file a reply in support of its motion prior to entering its order. The court notes that Plaintiff filed his reply on December 23, 2008.

The court has gone back and reviewed Plaintiff's Motion for Order of Production of

Discovery Materials, the Defendants' response, and Plaintiff's reply in support of the motion dated December 23, 2008. The court finds no basis for reconsidering its December 16, 2008, order. The court concludes there is nothing in Plaintiff's reply that would have altered the its decision. Accordingly, Plaintiff's Motion for Reconsideration and request for hearing (Docket No. 62) is **DENIED.**

IT IS SO ORDERED.

Dated this 13th day of January, 2009.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr.
United States Magistrate Judge